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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,313	12/04/2003	John Carlucci	CARL-001	2212
24574	7590	07/18/2006		
JEFFER, MANGELS, BUTLER & MARMARO, LLP 1900 AVENUE OF THE STARS, 7TH FLOOR LOS ANGELES, CA 90067			EXAMINER DONNELLY, JEROME W	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/730,313	<b>Applicant(s)</b> CARLUCCI ET AL.	
	<b>Examiner</b> Jerome W. Donnelly	<b>Art Unit</b> 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 4/27/06
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) → is/are withdrawn from consideration. 1-38-11 and 19
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) \_\_\_\_\_ is/are rejected. 4-7 and 12-18
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

JEROME DONNELLY  
PRIMARY EXAMINER

JEROME DONNELLY  
PRIMARY EXAMINER

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____   |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4, 5, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by

Reynolds.

Reynolds discloses a device comprising a base (having vertical components and horizontal components), legs (5) a rotating handle bar (30) which is slidably attached to the vertical extend of the platform and adapted to allow a patient to stretch through a sliding motion of the handle bar. Reynolds discloses a patient positioned on the platform.

As to the user of the device being directed as to how to use the device the examiner notes that it is known and obvious to employ a trainer to instruct a user on how to use a device.

Applicant has not designated the orientation of a surface. Surface has improper antecedent basis.

The method of claim 5 is inherent in the use of the rotating element of the handle bar.

In regard to claim 6, note that all of the components of the device include springs.

In regard to claim 7 Reynolds provides two sets of handle members (33, 35) to allow a user to perform progressively more strenuous exercises by increasing the amount of resistance placed on a user by allowing the user to select the position of the arm member (35).

Claims 12, 13, 14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harmon.

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Harmon discloses the method of 12 and 13 (Fig. 16a) having a platform, wherein the platform allows a user to lie down and grip the handle – bar (304) and slide the handle bar away from the platform in a direction generally parallel to the plane of the platform.

The method of using the device is made obvious in view of the combined disclosure of Harmon (col. 3).

In regard to claim 14 note element (312) of Harmon.

In regard to claim 16 and 17, as broadly claimed, Harmon disclose a handle bar which may be fixed in a plurality of angle/rotated positions.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harmon in view of Harris et al or Danylieko.

Harmon discloses the device of claim 18 substantially as claimed absent the device including a platform, which is placed on a surface and defines an acute angle.

Harmon however does disclose his device as being combinable with a bench for user support see (col. 3, lines 20-29).

Harris et al and Danylieko disclose bench means which are acutely angle to the floor.

Given the above combined teaching the examiner notes that it is well known and obvious in the art to exercise against a resistance means while lying on a bench which is acutely angled to the floor.

Claims 12 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Drath.

Drath discloses a device comprising: a platform 26 and 28 having two end portions (66, 68) attached to yoke members having through holes which are attached to rails 60 and 62.

These members would equate to the claimed members: the handle bar track being the yoke

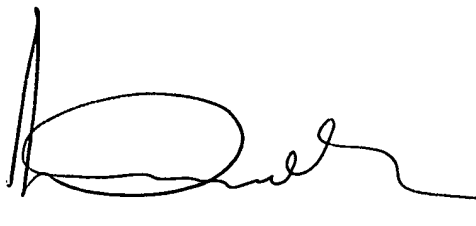
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members of Fig. 4A element 58. Element (58) being a handle bar track. The handle bar being connected to element (58), the platform being elements 26 and 28, which is connected to a platform track 62 and 60 and wherein they are slidably engaged.

In view of applicant remarks dated and faxed 4/27/06 the examiner, has examined the above elected claims 4-7 and 12-18 and elected. The previously examined claim 1-3, 8-11 and 19 were examined and were not the elected claims. Accordingly applicant election of the claims 4-7 and 12-18 is made final and claims 1-3, 8-11 and 19 have been withdrawn.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Jerome Donnelly



JEROME DONNELLY  
PRIMARY EXAMINER